



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

MAR 20 2018

Mr. Brian T. Griset

Exeter, NH 03833

RE: MUR 7131
Carol Shea-Porter, *et al.*

Dear Mr. Griset:

This is in reference to the complaint and supplemental complaint you filed with the Federal Election Commission on August 25, 2016 and October 20, 2016, respectively, concerning alleged violations of the Federal Election Campaign Act of 1971, as amended, by Carol Shea-Porter, Carol Shea-Porter for Congress, Susan D. Mayer, ActBlue, the Democratic Congressional Campaign Committee, Kaufman Legal Group, the National Committee to Preserve Social Security and Medicare PAC, NGP VAN, Inc., and Senior Votes Count.

On March 6, 2018, the Commission made the following findings:

- Dismissed the allegations that Senior Votes Count and Tony Fazio in his official capacity as treasurer violated 52 U.S.C. § 30104(b) and (g) by failing to timely file a 24-Hour Independent Expenditure Report, failing to disclose independent expenditures on its 2014 Post-General Report, and failing to report accurate employer information for a contribution, and cautioned Senior Votes Count;
- Found that there is no reason to believe that Senior Votes Count and Tony Fazio in his official capacity as treasurer violated 52 U.S.C. § 30104(b) by failing to report in-kind contributions or 52 U.S.C. § 30116(a) by making excessive contributions in connection with alleged coordinated radio advertisements;
- Found no reason to believe that Carol Shea-Porter violated 52 U.S.C. § 30116(f);

- Found no reason to believe that Carol Shea-Porter for Congress and Mary DiModika-Kulju in her official capacity as treasurer violated 52 U.S.C. §§ 30104(b), 30116(f) or 30118(a);
- Found no reason to believe that Susan D. Mayer violated 52 U.S.C. § 30116(a);
- Dismissed the allegation that ActBlue and Erin Hill in her official capacity as treasurer violated 11 C.F.R. § 110.6(c)(1)(iv), and cautioned ActBlue;
- Dismissed the allegation that Kaufman Legal Group violated 52 U.S.C. § 30118(a);
- Dismissed the allegation that Senior Votes Count and Tony Fazio in his official capacity as treasurer violated 52 U.S.C. §§ 30118(a) and 30104(b) by accepting and not reporting prohibited contributions in the form of debts not paid;
- Found no reason to believe that Senior Votes Count and Tony Fazio in his official capacity as treasurer violated 52 U.S.C. § 30118(a) by receiving credits from a vendor based on billing errors;
- Found no reason to believe that the Democratic Congressional Campaign Committee and Kelly Ward in her official capacity as treasurer violated the Act;
- Found no reason to believe that the National Committee to Preserve Social Security and Medicare PAC and Christine Kim in her official capacity as treasurer violated the Act; and
- Found no reason to believe that NGP VAN, Inc. violated 52 U.S.C. § 30118(a).

Accordingly, the Commission has closed its file in this matter. Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). Copies of the Factual and Legal Analyses for the respondents providing the basis of the findings are enclosed.

The Act allows a complainant to seek judicial review of the Commission's dismissal of actions. *See* 52 U.S.C. § 30109(a)(8).

Mr. Brian Grisct
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If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Delbert K. Rigsby

Delbert K. Rigsby
Attorney

Enclosures
Factual and Legal Analyses

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: ActBlue and Erin Hill in her official
capacity as treasurer

MUR 7131

I. INTRODUCTION

The Complainant in the matter alleges that ActBlue may not be forwarding accurate employment information on contributions thorough which it serves as an intermediary. ActBlue denies the reporting allegation. For the reasons below, the Commission dismisses with caution the allegation that ActBlue failed to accurately report occupation and employer information on a contribution.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Representative Carol Shea-Porter was a candidate for reelection in the First Congressional District of New Hampshire in 2014,¹ and Carol Shea-Porter for Congress is her principal campaign committee. During the 2014 election cycle, Susan Mayer was a part-time staffer in Shea-Porter's congressional district office in New Hampshire and volunteered part-time on her re-election campaign.² Senior Votes Count ("SVC") is a non-connected committee that disclosed the receipt of a \$3,110 contribution from Mayer on October 29, 2014, which was transmitted to SVC through ActBlue.³ SVC disclosed Mayer's occupation and employer as

¹ Representative Shea-Porter lost her reelection bid on November 4, 2014. She ran again in 2016 for the same Congressional seat, and was elected on November 8, 2016.

² See <http://congressional-staff.insidegov.com/>.

³ SVC 2014 Post-General Election Report at 6 (Dec. 4, 2014). ActBlue is a non-connected committee that acts as an intermediary for individual contributions made on its website to Democratic candidates and to political committees. ActBlue Resp. at 1.

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“Not-Employed” and “N/A,” respectively.⁴ ActBlue, however, disclosed Mayer’s occupation and employer as “Congressional Staffer” and “U.S. House of Representatives,” respectively.⁵

B. Legal Analysis

The Federal Election Campaign Act of 1971, as amended (the “Act”) requires political committees to identify each person (other than a political committee) who makes a contribution to the committee, whose contribution or contributions in the aggregate exceed \$200 within the calendar year (or election cycle in the case of an authorized committee), together with the date and amount of any such contribution.⁶ The identification of the contributor includes reporting the contributor’s name, mailing address, occupation, and name of his or employer, if any.⁷

The intermediary or conduit of an earmarked contribution shall report the original source and the recipient candidate or authorized committee to the Commission and to the recipient candidate or authorized committee.⁸ The report by the conduit or intermediary shall contain the name and mailing address of each contributor, and for each earmarked contribution in excess of \$200, the contributor’s occupation and name of his or her employer.⁹

Complainant questions whether ActBlue forwards accurate employer and occupation information for earmarked contributions passed through it.¹⁰ ActBlue asserts that on its contribution form, Mayer reported her employment status as “unemployed,” and it forwarded that

⁴ SVC 2014 Post-General Election Report at 6.

⁵ ActBlue 2014 Post-General Election Report at 329,743 (Dec. 4, 2014).

⁶ See 52 U.S.C. § 30104(b)(3)(A).

⁷ See 52 U.S.C. § 30101(13). See also 11 C.F.R. § 104.8(a).

⁸ See 11 C.F.R. § 110.6(c).

⁹ 11 C.F.R. § 110.6(c)(1)(iv)(A).

¹⁰ Compl. at 25.

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information to SVC.¹¹ ActBlue's response, however, conflicts with its disclosure report, which disclosed Mayer's occupation and employer information as "Congressional staffer" and "U.S. House of Representatives," respectively.¹²

While it appears that SVC reported the contributor information that ActBlue provided, that information was incorrect. Nevertheless, the Commission exercised its prosecutorial discretion and dismisses the allegation that Act Blue violated 11 C.F.R. § 110.6(c)(1)(iv) because ActBlue accurately reported Mayer's occupation and employer information on its own reports, and the incorrect disclosure relates to one contributor who gave less than the statutory limit.¹³ The Commission also cautions ActBlue about its reporting obligations.¹⁴

¹¹ *Id.*

¹² ActBlue 2014 Post-General Election Report at 329,743 (Dec. 4, 2014).

¹³ *See Heckler v. Chaney*, 470 U.S. 821 (1985).

¹⁴ *See* 11 C.F.R. § 110.6(c)(1)(iv)(A) (conduit or intermediary reporting contributor information to recipient committee); 11 C.F.R. § 104.7(b)(4) and 58 Fed. Reg. 57,725, 57,728 (Mar. 3, 1994) (Explanation and Justification) (if a committee receives contributor information after the contribution has been reported, it should either file an amended memo Schedule A with its next scheduled report, listing the contribution for which additional information was received including occupation and employer information, or file on or before the next scheduled report, amendments to the original reports on which the contributions were originally reported).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Democratic Congressional Campaign Committee
and Kelly Ward in her official capacity as treasurer

MUR 7131

I. INTRODUCTION

The Complainant in this matter alleges that the Democratic Congressional Campaign Committee ("DCCC") coordinated on expenditures in Representative Carol Shea-Porter's district. Shea-Porter was a candidate for reelection in the First Congressional District of New Hampshire in 2014, and Carol Shea-Porter for Congress is her principal campaign committee. The DCCC denies this allegation. For the reasons below, the Commission finds that there is no reason to believe that the DCCC violated the Federal Election Campaign Act of 1971, as amended (the "Act").

II. FACTUAL AND LEGAL ANALYSIS

Senior Votes Count ("SVC") is a non-connected committee that disclosed the receipt of a \$3,110 contribution from Susan Mayer on October 29, 2014, which was transmitted to SVC through ActBlue.¹ Also on October 29, SVC paid \$3,000 for two radio advertisements on behalf of Shea-Porter, according to an untimely 24-Hour Report of independent expenditures SVC filed on December 2, 2014.

¹ SVC 2014 Post-General Election Report at 6 (Dec. 4, 2014). ActBlue is a non-connected committee that acts as an intermediary for individual contributions made on its website to Democratic candidates and to political committees.

Under the Act, an expenditure made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his or her authorized political committees, or their agents, is considered a contribution to such candidate.²

Complainant, relying on an entry on the DCCC's disclosure report, alleges that it coordinated with SVC on the radio ads described above.³ The DCCC asserts that its \$355 expenditure on October 30, 2014, was for shipping costs for its own advertisement, not SVC's radio ads.⁴ The Commission has no information to the contrary. Based upon the DCCC's explanation, it does not appear to have coordinated its expenditure with SVC.

Therefore, in this matter, the Commission finds that there is no reason to believe that the Democratic Congressional Campaign Committee violated the Act.

² 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(a).

³ Compl. at 25, 28.

⁴ DCCC Resp. at 1 and attached invoice.

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Kaufman Legal Group

MUR 7131

I. INTRODUCTION

The Complainant in this matter alleges that Kaufman Legal Group ("Kaufman") made an in-kind contribution to Senior Votes Count ("SVC"), a non-connected political committee, by forgiving debts for legal fees. Kaufman denies that it has forgiven those debts. For the reasons below, the Commission exercises its prosecutorial discretion and dismisses the allegation.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

SVC first disclosed debts to Kaufman Legal Group ("Kaufman") on its 2014 July Quarterly Report and has continuously reported debts to Kaufman on subsequent reports including the most recent, its 2016 Year-End Report.¹ Kaufman is a law firm that specializes in campaign finance, election law, and governmental ethics, and it has a political compliance department.² SVC made two payments totaling \$2,237 to Kaufman in late 2014, which was the amount of debt to Kaufman disclosed on its 2014 July Quarterly Report, but those payments still left a balance due to Kaufman of \$4,174.52. Since then, SVC has continued to accrue debts to Kaufman, and has not reported any additional payments to Kaufman.

¹ On its 2014 July Quarterly Report, SVC reported a total of \$2,237 in debts owed to Kaufman for "legal and treasury fees" or for "legal and treasury expenses." See SVC 2014 July Quarterly Report at 7. On its 2016 Year-End Report, SVC reported a total of \$10,102 in debts owed to SVC, primarily for legal and treasury fees or legal and treasury expenses. See SVC 2016 Year-End Report at 6-18.

² See <http://www.kaufmanlegalgroup.com>.

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B. Legal Analysis

The Complaint alleges that Kaufman, a professional corporation,³ may have made in-kind contributions to SVC by not requiring SVC to pay its legal fees.⁴ The Act and Commission regulations prohibit corporations from making contributions to a federal political committee (other than independent-expenditure-only political committees),⁵ and a political committee is prohibited from knowingly accepting or receiving such contributions.⁶

The extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.⁷ An extension of credit includes, but is not limited to: (1) any agreement between the creditor and political committee that full payment is not due until after the creditor provides goods or services to the political committee; (2) any agreement between the creditor and political committee that the political committee will have additional time to pay the creditor beyond the previously agreed-to due date; and (3) the failure of the political committee to make full payment to the creditor by a previously agreed-to due date.⁸ A commercial vendor is any person who provides goods or

³ Kaufman is incorporated in the State of California. See <https://businesssearch.sos.ca.gov/CBS/Detail>.

⁴ Compl. at 27.

⁵ See, e.g., Advisory Op. 2010-11 (Commonsense Ten) (citing *Citizens United v. FEC*, 558 U.S. 310, 359 (2010)); *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011).

⁶ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

⁷ See 11 C.F.R. §§ 100.55, 116.3(b).

⁸ See 11 C.F.R. § 116.1(e).

services to a candidate or political committee, and whose usual and normal business involves the sale, rental, lease, or provision of those goods or services.⁹

In assessing whether a commercial vendor extended credit in the ordinary course of business, and thus did not make a contribution, the Commission will consider: (1) whether the commercial vendor followed its established procedures and its past practice in approving the extension of credit; (2) whether the commercial vendor received prompt payment in full if it previously extended credit to the same candidate or political committee; and (3) whether the extension of credit conformed to the usual and normal practice in the commercial vendor's trade or industry.¹⁰ A contribution also will result if a creditor fails to make a commercially reasonable attempt to collect the debt.¹¹

The Act and the Commission regulations specifically except legal and accounting services from the definition of contribution provided that "the person paying for such services is the regular employer of the individual rendering the services and if such services are solely for the purpose of ensuring compliance with this Act."¹² Kaufman is a law firm specializing in campaign finance law and legal compliance and has been providing compliance services for SVC since at least 2014.

Kaufman has denied forgiving the debt owed by SVC and has continued to provide legal and compliance services to SVC, which could be exempt under 52 U.S.C. § 30101(8)(B)(viii). Further, SVC currently reports a debt to Kaufman for \$17,736, and reports little cash on hand.

⁹ See 11 C.F.R. § 116.1(c).

¹⁰ See 11 C.F.R. § 116.3(c).

¹¹ See 11 C.F.R. § 100.55.

¹² See 52 U.S.C. § 30101(8)(B)(viii)(II); 11 C.F.R. § 100.86.

This low dollar amount and potentially exempt activity does not warrant further use of Commission time and resources.

Accordingly, the Commission dismisses the allegation consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-832 (1985).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: National Committee to Preserve Social Security
and Medicare PAC and Christine Kim in her
official capacity as treasurer

MUR 7131

I. INTRODUCTION

The Complainant in this matter alleges that the National Committee to Preserve Social Security and Medicare PAC ("NCP-PAC") coordinated its actions with Senior Votes Count ("SVC"), a non-connected committee, to support Representative Carol Shea-Porter, a candidate for reelection in the First Congressional District of New Hampshire in 2014. NCP-PAC denies that it coordinated with SVC. For the reasons below, the Commission finds that there is no reason to believe that NCP-PAC violated the Federal Election Campaign Act of 1971, as amended (the "Act").

II. FACTUAL AND LEGAL ANALYSIS

The Act defines "contribution" to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."¹ "Anything of value" includes all in-kind contributions and, unless otherwise exempted, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.²

Complainant alleges that NCP-PAC coordinated with SVC by announcing its support for Shea-Porter on the same day that SVC made independent expenditures on behalf of Shea-Porter, and that NCP-PAC made a contribution to Shea-Porter's campaign because two of SVC's

¹ 52 U.S.C. § 30101(8)(A)(i).

² 11 C.F.R. § 100.52(d)(1).

founders previously worked at NCP-PAC.³ NCP-PAC asserts that its only contribution to Shea-Porter during the 2014 election cycle was on September 26, 2013, more than a year before the alleged coordination, and six months before SVC's establishment.⁴ NCP-PAC also asserts that SVC's founders worked at NCP-PAC in 2012 and 2013, which was also well before SVC's establishment and the alleged coordination.⁵ The alleged relationships, without more, do not indicate any in-kind contribution by NCP-PAC to SVC or to Shea-Porter. Therefore, in this matter, the Commission finds that there is no reason to believe that the National Committee to Preserve Social Security and Medicare PAC violated the Act.

³ Compl. at 25.

⁴ NCP-PAC Resp. at 1. *See also* NCP-PAC's 2013 October Monthly Report at 17 (Oct. 7, 2013).

⁵ NCP-PAC Resp. at 2.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: NGP VAN, Inc.

MUR 7131

I. INTRODUCTION

The Complainant in this matter filed a supplement to the Complaint, which alleges that NGP VAN, Inc. ("NGP VAN") credited services to Senior Votes Count ("SVC"), a non-connected committee, and Carol Shea-Porter for Congress ("Committee"), the principal campaign committee of Representative Carol Shea-Porter, a candidate for reelection in the First Congressional District of New Hampshire in 2014, resulting in in-kind contributions. NGP VAN denies that it made in-kind contributions to SVC and the Committee. For the reasons below, the Commission finds that there is no reason to believe that NGP VAN violated 52 U.S.C.

§ 30118(a) by making prohibited contributions.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the "Act"), defines "contribution" to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."¹ "Anything of value" includes all in-kind contributions and, unless otherwise exempted, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.²

¹ 52 U.S.C. § 30101(8)(A)(i).

² 11 C.F.R. § 100.52(d)(1).

The Act and Commission regulations prohibit corporations from making contributions to a federal political committee (other than independent-expenditure-only political committees),³ and a political committee is prohibited from knowingly accepting or receiving such contributions.⁴

Complainant alleges that NGP VAN, a software vendor that provided services to the Committee and SVC, did not collect payments from them.⁵ NGP VAN asserts that it did not forgive debts to SVC.⁶ NGP VAN provided documents showing it adjusted SVC's account \$550 to correct billing errors.⁷ Regarding the allegation that NGP VAN also provided "credits" to outstanding debt on the [Committee's] filings," the Supplemental Complaint provides no information or description of such credits. During the 2014 election cycle, the Committee reported payments to NGP VAN for software services, but there is no information regarding credits NGP VAN extended to the Committee. NGP VAN asserts there is no record of any debt the Committee owes,⁸ the Committee has disclosed none, and we have no information to the contrary. Thus, NGP VAN does not appear to have made any prohibited in-kind contributions to the Committee. Therefore, the Commission finds that there is no reason to believe that NGP VAN, Inc. violated 52 U.S.C. § 30118(a).

³ See, e.g., Advisory Op. 2010-11 (Commonsense Ten) (citing *Citizens United v. FEC*, 558 U.S. 310, 359 (2010)); *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011).

⁴ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

⁵ Suppl. Compl. at 1. The Supplemental Complaint states that the issue of NGP VAN "was not thoroughly addressed" in the Complaint, and alleges that NGP VAN made in-kind contributions to SVC and the Committee by forgiving certain debts. *Id.*

⁶ NGP VAN Resp. to Suppl. Compl. at 1.

⁷ *Id.* and attached Credit Memo.

⁸ NGP VAN Resp. to Suppl. Compl at 1.

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Carol Shea-Porter and Carol Shea-Porter for Congress
and Mary DiModika-Kulju in her official capacity
as treasurer

MUR 7131

I. INTRODUCTION

The Complainant alleges that Representative Carol Shea-Porter and Carol Shea-Porter for Congress ("Committee") coordinated with Susan D. Mayer, a Shea-Porter congressional staffer, and Senior Votes Count ("SVC"), a non-connected committee, regarding a \$3,110 contribution that Mayer made to SVC, which was purportedly used to make undisclosed independent expenditures supporting Shea-Porter shortly before the 2014 general election. The Complainant also alleges that the National Committee to Preserve Social Security and Medicare PAC coordinated its actions with SVC to support Shea-Porter. Finally, a supplement to the Complaint alleges that NGP VAN, Inc., credited services to the Committee, resulting in in-kind contributions.

The Committee denies the coordination allegations, which are not supported by the available information. The Commission also finds that there is no reason to believe that the Committee accepted an excessive contribution and failed to report it. Further, the Commission finds that there is no reason to believe that the Committee accepted prohibited contributions.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Shea-Porter was a candidate for reelection in the First Congressional District of New Hampshire in 2014,¹ and Carol Shea-Porter for Congress is her principal campaign committee. During the 2014 election cycle, Susan Mayer was a part-time staffer in Shea-Porter's congressional district office in New Hampshire and volunteered part-time on her re-election campaign.² SVC is a non-connected committee that disclosed the receipt of a \$3,110 contribution from Mayer on October 29, 2014, which was transmitted to SVC through ActBlue.³ SVC disclosed Mayer's occupation and employer as "Not-Employed" and "N/A," respectively.⁴ ActBlue, however, disclosed Mayer's occupation and employer as "Congressional Staffer" and "U.S. House of Representatives," respectively.⁵ Also on October 29, 2014, SVC paid \$3,000 for two radio advertisements on behalf of Shea-Porter, according to an untimely 24-Hour Report of independent expenditures SVC filed on December 2, 2014.

¹ Representative Shea-Porter lost her reelection bid on November 4, 2014. She ran again in 2016 for the same Congressional seat and was elected on November 8, 2016.

² See <http://congressional-staff.insidegov.com>.

³ SVC 2014 Post-General Election Report at 6 (Dec. 4, 2014). ActBlue is a non-connected committee that acts as an intermediary for individual contributions made on its website to Democratic candidates and to political committees. ActBlue Resp. at 1.

⁴ SVC 2014 Post-General Election Report at 6.

⁵ ActBlue 2014 Post-General Election Report at 329,743 (Dec. 4, 2014).

B. Legal Analysis

1. Coordination

Under the Federal Election Campaign Act of 1971, as amended (the "Act"), an expenditure made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his or her authorized political committees, or their agents, is considered a contribution to such candidate.⁶ Communications that are paid for by a third party, but coordinated with a candidate, are also in-kind contributions to the candidate.⁷ Under Commission regulations, a communication is coordinated if it: (1) is paid for by a third party; (2) satisfies one of five content standards set forth at 11 C.F.R. § 109.21(c);⁸ and (3) satisfies one of six conduct standards set forth at 11 C.F.R. § 109.21(d).⁹

Complainant alleges that Shea-Porter and the Committee coordinated with Mayer and SVC regarding Mayer's contribution that she earmarked for the Committee, resulting in an excessive contribution to the Committee.¹⁰ In support, the Complaint alleges that Mayer and

⁶ 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(a). The Act prohibits a candidate or political committee from knowingly accepting contributions in violation of the contribution limits set forth in the Act. 52 U.S.C. § 30116(f).

⁷ 11 C.F.R. § 109.20.

⁸ The content standards are a communication that is an electioneering communication; a public communication that disseminates, distributes, or republishes, in whole or in part, campaign material prepared by a candidate or the candidate's authorized committee; a public communication that expressly advocates the election or defeat of a clearly identified candidate for Federal office; a public communication referring to various types of federal candidates or to political parties that satisfies the requirements of 11 C.F.R. §§ 109.21(c)(4)(i), (ii), (iii) or (iv); and a public communication that is the functional equivalent of express advocacy. *See* 11 C.F.R. § 109.21(c).

⁹ The conduct standards listed in 11 C.F.R. § 109.21(d) are: (1) request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee; and (6) republication.

¹⁰ Compl at 1.

SVC representatives appeared at a Shea-Porter campaign event, and that there are professional relationships among SVC representatives, Mayer, and Shea-Porter.¹¹

The Committee and Shea-Porter assert that there is no evidence of coordination with other respondents.¹² They also assert that there is no evidence that Mayer contributed to SVC specifically to fund radio ads on behalf of the Committee.¹³ Even if there had been coordination, they further assert, it would have resulted in a contribution that was only \$400 over SVC's contribution limit.¹⁴ There is information available that Mayer does not appear in a photograph of a Shea-Porter campaign event that the Complainant submitted as proof of coordination.

SVC's payment for the radio ads in support of Shea-Porter satisfies the payment prong, and the communication's nature satisfies the content prong.¹⁵ As to the conduct prong, the Complaint relies on the alleged professional relationships among the various respondents, and the attendance by Mayer and representatives of other respondents at a Shea-Porter campaign event. This information, standing alone, does not satisfy any of the conduct standards set forth in 11 C.F.R. § 109.21(d).¹⁶

Accordingly, the Commission found that there is no reason to believe that Shea-Porter and the Committee violated 52 U.S.C. § 30116(f) by accepting an excessive contribution from SVC or

¹¹ *Id.* at 8, 10.

¹² Shea-Porter and Committee Resp. at 2.

¹³ *Id.*

¹⁴ *Id.* at 3. For the 2014 election cycle, no person was permitted to make contributions to a candidate for federal office or his authorized political committee which in the aggregate exceed \$2,600 for each election. 52 U.S.C. § 30116(a)(1)(A) and 11 C.F.R. § 110.1(b).

¹⁵ See 11 C.F.R. § 109.21(a)(1). The content prong is satisfied because the radio ads are public communications that clearly identify a federal candidate, Shea-Porter, fewer than 90 days before the candidate's election. See 11 C.F.R. § 109.21(c)(4)(i).

¹⁶ 11 C.F.R. § 109.21(d).

Susan Mayer. Further, the Commission found that there is no reason to believe that the Committee violated 52 U.S.C. § 30104(b) by failing to report an excessive contribution from SVC or from Mayer.

2. Other Alleged In-Kind Contributions

The Act defines “contribution” to include “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”¹⁷ “Anything of value” includes all in-kind contributions and, unless otherwise exempted, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.¹⁸

The Act and Commission regulations prohibit corporations from making contributions to a federal political committee (other than independent-expenditure-only political committees),¹⁹ and a political committee is prohibited from knowingly accepting or receiving such contributions.²⁰

The Complainant alleges that the National Committee to Preserve Social Security and Medicare PAC (“NCP-PAC”) coordinated its actions with SVC to support Shea-Porter by announcing its support for Shea-Porter on the same day that SVC made independent expenditures on behalf of Shea-Porter, and that NCP-PAC made a contribution to Shea-Porter’s campaign because two of SVC’s founders previously worked at NCP-PAC.²¹ NCP-PAC asserts

¹⁷ 52 U.S.C. § 30101(8)(A)(i).

¹⁸ 11 C.F.R. § 100.52(d)(1).

¹⁹ See, e.g., Advisory Op. 2010-11 (Commonsense Ten) (citing *Citizens United v. FEC*, 558 U.S. 310, 359 (2010)); *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011).

²⁰ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

²¹ Compl. at 25.

that its only contribution to Shea-Porter during the 2014 election cycle was on September 26, 2013, more than a year before the alleged coordination, and six months before SVC's establishment.²² NCP-PAC also asserts that SVC's founders worked at NCP-PAC in 2012 and 2013, which was also well before SVC's establishment and the alleged coordination.²³ The alleged relationships, without more, do not indicate any in-kind contribution by NCP-PAC to SVC or to Shea-Porter. Therefore, the Commission finds no reason to believe that the Committee violated 52 U.S.C. § 30116(f) by receiving an excessive contribution from NCP-PAC.

Complainant also alleges that NGP VAN, a software vendor that provided services to the Committee, did not collect payments from it, specifically, that it provided "'credits' to outstanding debt on the [Committee's] filings."²⁴ The Supplemental Complaint, however, provides no information or description of such credits. During the 2014 election cycle, the Committee reported payments to NGP VAN for software services, but there is no information regarding credits NGP VAN extended to the Committee. The available information does not indicate any record of any debt the Committee owes to NGP VAN and the Committee has disclosed none. Thus, the Committee does not appear to have accepted any in-kind contributions from NGP VAN. Therefore, the Commission finds no reason to believe that the Committee violated 52 U.S.C. § 30118 by accepting a prohibited contribution from NGP VAN, Inc.

²² NCP-PAC Resp. at 1. *See also* NCP-PAC's 2013 October Monthly Report at 17 (Oct. 7, 2013).

²³ NCP-PAC Resp. at 2.

²⁴ Suppl. Compl. at 1. The Supplemental Complaint states that the issue of NGP VAN "was not thoroughly addressed" in the Complaint, and alleges that NGP VAN made in-kind contributions to the Committee by forgiving certain debts. *Id.*

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Susan D. Mayer

MUR 7131

I. INTRODUCTION

The Complainant alleges that Representative Carol Shea-Porter and Carol Shea-Porter for Congress ("Committee") coordinated with Susan D. Mayer, a Shea-Porter congressional staffer, and Senior Votes Count ("SVC"), a non-connected committee, regarding a \$3,110 contribution that Mayer made to SVC.¹

Mayer denies the coordination allegations, which are not supported by the available information. For the reasons below, the Commission finds that there is no reason to believe that Mayer made an excessive contribution to SVC or the Committee.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Shea-Porter was a candidate for reelection in the First Congressional District of New Hampshire in 2014,² and Carol Shea-Porter for Congress is her principal campaign committee. During the 2014 election cycle, Susan Mayer was a part-time staffer in Shea-Porter's congressional district office in New Hampshire and volunteered part-time on her re-election campaign.³ SVC disclosed the receipt of a \$3,110 contribution from Mayer on October 29,

¹ Additionally, Complainant alleges that by making the resulting contribution to the Committee, Mayer violated the ethics rules of the U.S. House of Representatives and a federal statute, 18 U.S.C. § 603, prohibiting a congressional staffer from donating, directly or indirectly, to his or her employer's campaign. Compl. at 1. The Commission does not have jurisdiction over violations of 18 U.S.C. § 603.

² Representative Shea-Porter lost her reelection bid on November 4, 2014. She ran again in 2016 for the same Congressional seat, and was elected on November 8, 2016.

³ Mayer Resp. at 1. See <http://congressional-staff.insidegov.com>.

2014, which was transmitted to SVC through ActBlue.⁴ SVC disclosed Mayer's occupation and employer as "Not-Employed" and "N/A," respectively.⁵ ActBlue, however, disclosed Mayer's occupation and employer as "Congressional Staffer" and "U.S. House of Representatives," respectively.⁶ Also on October 29, 2014, SVC paid \$3,000 for two radio advertisements on behalf of Shea-Porter, according to an untimely 24-Hour Report of independent expenditures SVC filed on December 2, 2014.

B. Legal Analysis

1. Coordination

Under the Act, an expenditure made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his or her authorized political committees, or their agents, is considered a contribution to such candidate.⁷ Communications that are paid for by a third party, but coordinated with a candidate, are also in-kind contributions to the candidate.⁸ Under Commission regulations, a communication is coordinated if it: (1) is paid for by a third party; (2) satisfies one of five content standards set forth at 11 C.F.R. § 109.21(c),⁹ and (3) satisfies one of six conduct standards set forth at 11 C.F.R. § 109.21(d).¹⁰

⁴ SVC 2014 Post-General Election Report at 6 (Dec. 4, 2014). ActBlue is a non-connected committee that acts as an intermediary for individual contributions made on its website to Democratic candidates and to political committees.

⁵ SVC 2014 Post-General Election Report at 6.

⁶ ActBlue 2014 Post-General Election Report at 329,743 (Dec. 4, 2014).

⁷ 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(a). The Act prohibits a candidate or political committee from knowingly accepting contributions in violation of the contribution limits set forth in the Act. 52 U.S.C. § 30116(f).

⁸ 11 C.F.R. § 109.20.

⁹ The content standards are a communication that is an electioneering communication; a public communication that disseminates, distributes, or republishes, in whole or in part, campaign material prepared by a candidate or the candidate's authorized committee; a public communication that expressly advocates the election or

Complainant alleges that Shea-Porter and the Committee coordinated with Mayer and SVC regarding Mayer's contribution that she earmarked for the Committee, resulting in an excessive contribution to the Committee.¹¹ In support, the Complaint alleges that Mayer and SVC representatives appeared at a Shea-Porter campaign event, and that there are professional relationships among SVC representatives, Mayer, and Shea-Porter.¹²

Mayer asserts that there is no evidence of coordination by her with other respondents.¹³ Mayer denies that she earmarked a contribution to the Committee through SVC, and thus, made an excessive contribution to the Committee. Mayer asserts that she made a contribution to SVC that was less than the \$5,000 limit.¹⁴ Mayer argues that she did not attempt to hide her employment with Shea-Porter as ActBlue accurately reported her employment information.¹⁵ Mayer also denies that she is in a photograph of a Shea-Porter campaign event that the Complainant submitted as proof of coordination.¹⁶

defeat of a clearly identified candidate for Federal office; a public communication referring to various types of federal candidates or to political parties that satisfies the requirements of 11 C.F.R. §§ 109.21(c)(4)(i), (ii), (iii) or (iv); and a public communication that is the functional equivalent of express advocacy. See 11 C.F.R. § 109.21(c).

¹⁰ The conduct standards listed in 11 C.F.R. § 109.21(d) are: (1) request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee; and (6) republication.

¹¹ Compl at 1.

¹² *Id.* at 8, 10.

¹³ Mayer Resp. at 5.

¹⁴ *Id.* at 2, 4. The Act permits a person to contribute up to \$5,000 per calendar year to other political committees that are not the national or state committees of a political party. 52 U.S.C. § 30116(a)(1)(C).

¹⁵ Mayer Resp. at 4.

¹⁶ *Id.* at 3.

SVC's payment for the radio ads in support of Shea-Porter satisfies the payment prong, and the communication's nature satisfies the content prong.¹⁷ As to the conduct prong, the Complaint relies on the alleged professional relationships among the various respondents, and the attendance by Mayer and representatives of other respondents at a Shea-Porter campaign event. This information, standing alone, does not satisfy any of the conduct standards set forth in 11 C.F.R. § 109.21(d).¹⁸

Accordingly, the Commission finds that there is no reason to believe that Susan D. Mayer violated 52 U.S.C. § 30116(a) by making an excessive contribution to SVC or the Committee.

¹⁷ See 11 C.F.R. § 109.21(a)(1). The content prong is satisfied because the radio ads are public communications that clearly identify a federal candidate, Shea-Porter, fewer than 90 days before the candidate's election. See 11 C.F.R. § 109.21(c)(4)(i).

¹⁸ 11 C.F.R. § 109.21(d).

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Senior Votes Count and Tony Fazio
In his official capacity as treasurer

MUR 7131

I. INTRODUCTION

The Complainant alleges that Senior Votes Count ("SVC"), a non-connected committee, coordinated with Representative Carol Shea-Porter and Carol Shea-Porter for Congress ("Committee") and Susan D. Mayer, a Shea-Porter congressional staffer, regarding a \$3,110 contribution that Mayer made to SVC, which was purportedly used to make undisclosed independent expenditures supporting Shea-Porter shortly before the 2014 general election. The Complainant also alleges that SVC failed to disclose Mayer's occupation. In addition, the Complaint alleges that SVC received an in-kind contribution from Kaufman Legal Group in the form of forgiving debts for legal fees. The Complainant also alleges that the National Committee to Preserve Social Security and Medicare PAC coordinated its actions with SVC to support Shea-Porter. Finally, a supplement to the Complaint alleges that NGP VAN, Inc., credited services to SVC, resulting in in-kind contributions.

For the reasons below, the Commission finds no reason to believe as to the coordination allegations, dismisses with caution the allegation that SVC failed to file a 24-Hour Report and failed to report the independent expenditure on its next regularly scheduled disclosure report. The Commission also dismisses with caution the allegation as to SVC regarding the reporting of Mayer's occupation and employer. Further, the Commission dismisses the allegation that SVC accepted prohibited contributions from Kaufman Legal Group in the form of uncollected debts.

Finally, the Commission finds that there is no reason to believe that SVC accepted prohibited contributions from NGP Van by crediting the vendor's billing errors.

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

Shea-Porter was a candidate for reelection in the First Congressional District of New Hampshire in 2014,¹ and Carol Shea-Porter for Congress is her principal campaign committee. During the 2014 election cycle, Susan Mayer was a part-time staffer in Shea-Porter's congressional district office in New Hampshire and volunteered part-time on her re-election campaign.² SVC is a non-connected committee that disclosed the receipt of a \$3,110 contribution from Mayer on October 29, 2014, which was transmitted to SVC through ActBlue.³ SVC disclosed Mayer's occupation and employer as "Not-Employed" and "N/A," respectively.⁴ ActBlue, however, disclosed Mayer's occupation and employer as "Congressional Staffer" and "U.S. House of Representatives," respectively.⁵ Also on October 29, 2014, SVC paid \$3,000 for two radio advertisements on behalf of Shea-Porter, according to an untimely 24-Hour Report of independent expenditures SVC filed on December 2, 2014. SVC did not disclose the independent expenditures on its 2014 Post-General Report. On January 5, 2015, the Commission's Reports Analysis Division sent SVC a Request for Additional Information

¹ Representative Shea-Porter lost her reelection bid on November 4, 2014. She ran again in 2016 for the same Congressional seat and was elected on November 8, 2016.

² See <http://congressional-staff.insidegov.com>.

³ SVC Resp. at 1; SVC 2014 Post-General Election Report at 6 (Dec. 4, 2014). ActBlue is a non-connected committee that acts as an intermediary for individual contributions made on its website to Democratic candidates and to political committees.

⁴ SVC 2014 Post-General Election Report at 6.

⁵ ActBlue 2014 Post-General Election Report at 329,743 (Dec. 4, 2014).

concerning the untimely 24-Hour Report and SVC's failure to disclose the expenditures on its 2014 Post-General Report. SVC responded that it filed a 24-Hour Report as soon as it realized one had not been filed.⁶ SVC has not amended its 2014 Post-General Report to disclose the independent expenditures.

SVC first disclosed debts to Kaufman Legal Group ("Kaufman") on its 2014 July Quarterly Report and has continuously reported debts to Kaufman on subsequent reports, including the most recent, its 2016 Year-End Report.⁷ Kaufman is a law firm that specializes in campaign finance, election law, and governmental ethics, and it has a political compliance department.⁸ SVC made two payments totaling \$2,237 to Kaufman in late 2014, which was the amount of debt to Kaufman disclosed on its 2014 July Quarterly Report, but those payments still left a balance due to Kaufman of \$4,174.52. Since then, SVC has continued to accrue debts to Kaufman, and has not reported any additional payments to Kaufman.

B. Legal Analysis

1. Coordination

Under the Act, an expenditure made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, his or her authorized political committees, or

⁶ SVC Miscellaneous Report to the Commission (Feb. 9, 2015). SVC filed its Post-General Report on December 4, 2014, two days after it reported the independent expenditure.

⁷ On its 2014 July Report, SVC reported a total of \$2,237 in debts owed to Kaufman for "legal and treasury fees" or for "legal and treasury expenses." See SVC 2014 July Quarterly Report at 7. On its 2016 Year-End Report, SVC reported a total of \$10,102 in debts owed to SVC, primarily for legal and treasury fees or legal and treasury expenses. See SVC 2016 Year-End Report at 6-18.

⁸ See <http://www.kaufmanlegalgroup.com>. Kaufman is also representing SVC in this matter.

their agents, is considered a contribution to such candidate.⁹ Communications that are paid for by a third party, but coordinated with a candidate, are also in-kind contributions to the candidate.¹⁰ Under Commission regulations, a communication is coordinated if it: (1) is paid for a third party; (2) satisfies one of five content standards set forth at 11 C.F.R. § 109.21(c);¹¹ and (3) satisfies one of six conduct standards set forth at 11 C.F.R. § 109.21(d).¹²

Complainant alleges that Shea-Porter and the Committee coordinated with Mayer and SVC regarding Mayer's contribution that she earmarked for the Committee, resulting in an excessive contribution to the Committee.¹³ As evidence, the Complaint alleges that Mayer and SVC representatives appeared at a Shea-Porter campaign event, and that there are professional relationships among SVC representatives, Mayer, and Shea-Porter.¹⁴

SVC asserts that there is no evidence of coordination.¹⁵ The available information does not indicate that Mayer contributed to SVC specifically to fund radio ads on behalf of the Committee.

⁹ 52 U.S.C. § 30116(a)(7)(B)(i); 11 C.F.R. § 109.20(a). The Act prohibits a candidate or political committee from knowingly accepting contributions in violation of the contribution limits set forth in the Act. 52 U.S.C. § 30116(f).

¹⁰ 11 C.F.R. § 109.20.

¹¹ The content standards are a communication that is an electioneering communication; a public communication that disseminates, distributes, or republishes, in whole or in part, campaign material prepared by a candidate or the candidate's authorized committee; a public communication that expressly advocates the election or defeat of a clearly identified candidate for Federal office; a public communication referring to various types of federal candidates or to political parties that satisfies the requirements of 11 C.F.R. §§ 109.21(c)(4)(i), (ii), (iii) or (iv); and a public communication that is the functional equivalent of express advocacy. See 11 C.F.R. § 109.21(c).

¹² The conduct standards listed in 11 C.F.R. § 109.21(d) are: (1) request or suggestion; (2) material involvement; (3) substantial discussion; (4) common vendor; (5) former employee; and (6) republication.

¹³ Compl. at 1.

¹⁴ *Id.* at 8, 10.

¹⁵ SVC Resp. at 2.

Mayer made a contribution to SVC that was less than the \$5,000 limit.¹⁶ ActBlue accurately reported Mayer's employment information on its report. There is also information available that Mayer does not appear in a photograph of a Shea-Porter campaign event that the Complainant submitted as proof of coordination.

SVC's payment for the radio ads in support of Shea-Porter satisfies the payment prong, and the communication's nature satisfies the content prong.¹⁷ As to the conduct prong, the Complaint relies on the alleged professional relationships among the various respondents, and the attendance by Mayer and representatives of other respondents at a Shea-Porter campaign event. This information, standing alone, does not satisfy any of the conduct standards set forth in 11 C.F.R. § 109.21(d).¹⁸

Accordingly, the Commission finds that there is no reason to believe that SVC violated 52 U.S.C. § 30116(a) by making an excessive contribution to Shea-Porter and the Committee or violated 52 U.S.C. § 30104(b) by failing to report an excessive contribution.

2. Independent Expenditure Reporting

The Act requires a person (including a political committee) that makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election to file a report describing the expenditures within 24 hours.¹⁹

¹⁶ The Act permits a person to contribute up to \$5,000 per calendar year to other political committees that are not the national or state committees of a political party. 52 U.S.C. § 30116(a)(1)(C).

¹⁷ See 11 C.F.R. § 109.21(a)(1). The content prong is satisfied because the radio ads are public communications that clearly identify a federal candidate, Shea-Porter, fewer than 90 days before the candidate's election. See 11 C.F.R. § 109.21(c)(4)(i).

¹⁸ 11 C.F.R. § 109.21(d).

¹⁹ 52 U.S.C. § 30104(g). See also 11 C.F.R. § 104.4(c).

The Complaint alleges that SVC failed to file a 24-Hour Report disclosing its independent expenditures.²¹ SVC filed its 24-Hour Report on December 2, 2014—after the election and 33 days late—disclosing \$3,000 in independent expenditures.²² In addition, SVC did not report the \$3,000 expenditure on its subsequent disclosure report, the 2014 Post-General Report. However, in light of the small amount at issue, the Commission exercised its prosecutorial discretion and dismisses the allegations that SVC violated 52 U.S.C. § 30104(g) by failing to timely file the 24-Hour Independent Expenditure Report, and violated 52 U.S.C. § 30104(b) by failing to report the independent expenditure on its 2014 Post-General Report.²³ Further, the Commission cautions SVC about its obligations to report independent expenditures.

The Act requires political committees to identify each person (other than a political committee) who makes a contribution to the committee, whose contribution or contributions in the aggregate exceed \$200 within the calendar year (or election cycle in the case of an authorized committee), together with the date and amount of any such contribution.²⁴ The identification of

²⁴ See 52 U.S.C. § 30104(b)(3)(A).

the contributor includes reporting the contributor's name, mailing address, occupation, and name of his or employer, if any.²⁵

The intermediary or conduit of an earmarked contribution shall report the original source and the recipient candidate or authorized committee to the Commission and to the recipient candidate or authorized committee.²⁶ The report by the conduit or intermediary shall contain the name and mailing address of each contributor, and for each earmarked contribution in excess of \$200, the contributor's occupation and name of his or her employer.²⁷

Complainant also alleges that SVC "intentionally changed" its disclosure report by listing Mayer's employment status as "unemployed" even though SVC should have known that the Committee employed her.²⁸ In support, Complainant points to SVC's involvement and familiarity with Shea-Porter's campaign, noting that SVC's co-founder appeared in support of Shea-Porter's 2012 and 2014 campaigns.²⁹ SVC denies that it tried to cover up Mayer's contribution by reporting she was unemployed, and it provides a document it states it received from ActBlue listing Mayer's occupation as "not employed" and her employer as "None."³⁰

While it appears that SVC reported the contributor information that ActBlue provided, that information was incorrect, thus, SVC did not accurately report Mayer's employment information. Nevertheless, the Commission exercises its prosecutorial discretion and dismisses

²⁵ See 52 U.S.C. § 30101(13). See also 11 C.F.R. § 104.8(a).

²⁶ See 11 C.F.R. § 110.6(c).

²⁷ 11 C.F.R. § 110.6(c)(1)(iv)(A).

²⁸ Compl. at 2.

²⁹ *Id.* at 8.

³⁰ SVC Resp. at 2 and attached document. See SVC's 2014 Post-General Election Report at 6.

the allegation that SVC violated 52 U.S.C. § 30104(b) because SVC's incorrect disclosure relates to one contributor who gave less than the statutory limit.³¹ The Commission cautions SVC about its reporting obligations.³²

4. Debt to Law Firm

The Complaint alleges that Kaufman Legal Group ("Kaufman"), a professional corporation,³³ may have made in-kind contributions to SVC by not requiring SVC to pay its legal fees.³⁴ The Act and Commission regulations prohibit corporations from making contributions to a federal political committee (other than independent-expenditure-only political committees),³⁵ and a political committee is prohibited from knowingly accepting or receiving such contributions.³⁶

The extension of credit by any person is a contribution unless the credit is extended in the ordinary course of the person's business and the terms are substantially similar to extensions of credit to nonpolitical debtors that are of similar risk and size of obligation.³⁷ An extension of credit includes, but is not limited to: (1) any agreement between the creditor and political

³¹ See *Heckler v. Chaney*, 470 U.S. 821 (1985).

³² See 11 C.F.R. § 110.6(c)(1)(iv)(A) (conduit or intermediary reporting contributor information to recipient committee); 11 C.F.R. § 104.7(b)(4) and 58 Fed. Reg. 57,725, 57,728 (Mar. 3, 1994) (Explanation and Justification) (if a committee receives contributor information after the contribution has been reported, it should either file an amended memo Schedule A with its next scheduled report, listing the contribution for which additional information was received including occupation and employer information, or file on or before the next scheduled report, amendments to the original reports on which the contributions were originally reported).

³³ Kaufman is incorporated in the State of California. See <https://businesssearch.sos.ca.gov/CBS/Detail>.

³⁴ Compl. at 27.

³⁵ See, e.g., Advisory Op. 2010-11 (Commonsense Ten) (citing *Citizens United v. FEC*, 558 U.S. 310, 359 (2010)); *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011).

³⁶ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

³⁷ See 11 C.F.R. §§ 100.55, 116.3(b).

The Act and the Commission regulations specifically except legal and accounting services from the definition of contribution provided that “the person paying for such services is the regular employer of the individual rendering the services and if such services are solely for the

⁴¹ See 11 C.F.R. § 100.55.

purpose of ensuring compliance with this Act.”⁴² Kaufman is a law firm specializing in campaign finance law and legal compliance and has been providing compliance services for SVC since at least 2014.

Kaufman has denied forgiving the debt owed by SVC and has continued to provide legal and compliance services to SVC, which could be exempt under 52 U.S.C. § 30101(8)(B)(viii). Further, SVC currently reports a debt to Kaufman for \$17,736, and reports little cash on hand. This low dollar amount and potentially exempt activity does not warrant further use of Commission time and resources. Accordingly, the Commission dismisses the allegation consistent with the Commission’s prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-832 (1985).

5. Other Alleged In-Kind Contributions

The Act defines “contribution” to include “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office.”⁴³ “Anything of value” includes all in-kind contributions and, unless otherwise exempted, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.⁴⁴

a. Democratic Congressional Campaign Committee (“DCCC”)

Complainant, relying on an entry on the DCCC’s disclosure report, alleges that it coordinated with SVC and the Committee on the radio ads described earlier.⁴⁵ The DCCC

⁴² See 52 U.S.C. § 30101(8)(B)(viii)(II); 11 C.F.R. § 100.86.

⁴³ 52 U.S.C. § 30101(8)(A)(i).

⁴⁴ 11 C.F.R. § 100.52(d)(1).

⁴⁵ Compl. at 25, 28.

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disclosed a \$355 expenditure on October 30, 2014, for shipping costs, and the available information does not indicate that it was related to SVC's radio advertisements. Accordingly, the DCCC does not appear to have coordinated its expenditure with SVC, and the Commission finds no reason to believe that the SVC violated the Act in connection with this allegation.

b. National Committee to Preserve Social Security
and Medicare PAC ("NCP-PAC")

Complainant alleges that NCP-PAC coordinated with SVC by announcing its support for Shea-Porter on the same day that SVC made independent expenditures on behalf of Shea-Porter.⁴⁶ There is information available that NCP-PAC's only contribution to Shea-Porter during the 2014 election cycle was on September 26, 2013, more than a year before the alleged coordination, and six months before SVC's establishment.⁴⁷ The available information also indicates that SVC's founders worked at NCP-PAC in 2012 and 2013, which was also well before SVC's establishment and the alleged coordination. The alleged relationships, without more, do not indicate any in-kind contribution by NCP-PAC to SVC. Accordingly, the Commission finds no reason to believe that SVC violated 52 U.S.C. § 30116(f) in connection with NCP-PAC.

c. NGP VAN, Inc.

Complainant alleges that NGP VAN, a software vendor that provided services to SVC, did not collect payments from it.⁴⁸ There is no information available that NGP VAN forgave any debts owed by SVC. However, there is documentation that NGP VAN adjusted SVC's account

⁴⁶ Compl. at 25.

⁴⁷ See NCP-PAC's 2013 October Monthly Report at 17 (Oct. 7, 2013).

⁴⁸ Suppl. Compl. at 1. The Supplemental Complaint states that the issue of NGP VAN "was not thoroughly addressed" in the Complaint, and alleges that NGP VAN made in-kind contributions to SVC and the Committee by forgiving certain debts. *Id.*

\$550 to correct billing errors. Because the available record does not indicate that SVC accepted in-kind contributions from NGP VAN, the Commission finds no reason to believe that SVC violated 52 U.S.C. § 30118(a) by accepting prohibited contributions from NGP VAN, Inc.

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